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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUL 14 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)
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PETITION FOR CLARIFICATION

The Alliance for Public Technology¹, Edgemont Neighborhood Coalition², Benton Foundation³, Center for Media Education⁴, Civil Rights Project, Inc.⁵, and OMB Watch⁶ (hereinafter "Petitioners"), hereby petition for clarification regarding the scope of permissible community participation in a buying coalition or consortium as described in paragraphs 33 and 476 through 483 of the Commission's May 8, 1997, Report and Order in the above-captioned matter.

Petitioners' interpretation of the referenced paragraphs, and their understanding of the FCC's intent, is that community-based nonprofit

¹ Alliance for Public Technology is a nonprofit organization with 311 members, 104 of which are other nonprofit organizations and 207 of which are individuals, all of whom share the goal of fostering equitable and affordable access to advanced telecommunications technologies and services.

² Edgemont Neighborhood Coalition is a small nonprofit community development corporation located in the low income African American neighborhood in Dayton, Ohio.

³ Benton Foundation is a nonprofit, nonpartisan, private foundation whose mission is to promote communications tools, applications, and policies in the public interest.

⁴ Center for Media Education is a national nonprofit organization working on telecommunications policy issues.

⁵ Civil Rights Project, Inc. is a nonprofit organization focusing on telecommunications as a civil rights issue.

⁶ OMB Watch is a nonprofit organization concerned with access to government information, use of technology in the nonprofit sector, and improving citizen participation in government decision-making and awareness about government actions.

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organizations, along with public (governmental) entities, may freely join in buying consortia with discount-eligible schools, libraries, and rural health care providers as defined in the FCC's Order. Such consortia—consisting of a mixture of discount-eligible entities, governmental entities, and private nonprofits and community-based organizations—can purchase any commercially available telecommunications service at the best rate achievable through a competitive bidding process and contractual negotiations, except for interstate services purchased from incumbent local exchange carriers (ILECs). Where interstate services are purchased from ILECs, they must be purchased at tariffed rates. However, tariffed rates exist which provide for better-than-retail prices for bulk buying.

The discounts to eligible entities—20-90% discounts to schools and libraries according to the FCC's discount matrix, and discounts to rural health care providers to equalize their costs with the nearest urban area with a population of 50,000 or more within the same state—have a strong community-building thrust. Our overriding interest in the discounts is that they provide a potential bridge for broadening the community base for applications of advanced telecommunications technologies to reach the full spectrum of society. Realization of this potential, however, is inextricably linked to involving community-based nonprofits with the discount-eligible entities in working relationships to make sure that the benefits of the discounts serve the broader community, particularly communities whose needs are “marginalized” in the normal operation of competitive markets.

The “discount bridge,” explicitly funded, must be supportive of community interests in building out the last mile of advanced infrastructure capability to reach all Americans (the goal of Section 706 of the Telecommunications Act of 1996). Community-based organizations themselves

will benefit from the strengthened market power of an aggregated consumer coalition in their community-building relationships with the entities targeted for discounts. If schools, libraries and rural health care facilities implement their technology plans without the benefit of community involvement, their ability to develop the full potential of telecommunications applications for their own purposes may be needlessly hindered.

This means that there should be positive incentives for discount-eligible entities to enter into strong working relationships with community-based nonprofits. At a very minimum, any ambiguous wording in the referenced paragraphs affecting buying coalitions or consortia that may operate as potential disincentives to such relationships must be removed and/or clarified.

Specifically, there is potential confusion among the discount-eligible entities, the public interest advocacy community, and the telecommunications carriers and service providers as well, as to whether non-discount-eligible entities (other than governmental entities) may participate in buying consortia with discount-eligible entities. There is concern that adding non-discount-eligible entities to a buying coalition will put the discounts at risk for the eligible entities. The FCC should specifically state that community-based nonprofit organizations can enter into buying consortia with schools, libraries, and rural health care providers. The FCC should clearly communicate that mixed consortia will not endanger the ability of discount-eligible entities to obtain the best base rates, nor put the eligible entities' discounts at risk.

The FCC should urge discount-eligible entities to develop and use applications of telecommunications technologies in concert with nonprofits and community-based organizations to maximize the benefit of the availability of advanced services for their entire community. Confusion in this area could serve to prevent schools and libraries from fully working with community-based

organizations in implementing their technology plans, which would be counter-productive to an effort to extend applications into a community.

For example, the Edgemont Neighborhood Coalition is a small nonprofit community development corporation located in the low income African American neighborhood in Dayton, Ohio. Among other activities, Edgemont operates a community computer center which makes ten computers and their Internet capabilities available to community residents. One-on-one tutoring in the use of the technology is provided, as are workshops on a variety of topics. At last count, only two homes in the neighborhood had computers, making this center the sole access point for most people in that neighborhood.

For the past year Edgemont has participated in the Dayton Area Telecommunications Roundtable, a group which includes the local school district, library, city government, and several social service agencies. The roundtable has been exploring possibilities for cooperation among the participating groups and has focused on the opportunities for joint purchasing of telecommunications services.

Edgemont needs to participate in a buying consortia with these other groups in order to be able to afford present and future telecommunications services. Just as importantly, to fulfill its mission, Edgemont needs the sort of collaboration which will flow from such a consortium.

The Dayton school district and local library also understand the need for collaboration with community groups but they are uncertain whether they can include Edgemont in any buying consortia without hampering that consortia. As long as there is a lack of clarity, they will be inclined to exclude Edgemont, because they cannot risk losing their discounts.

Wherefore, Petitioners respectfully request that the FCC clarify, both (1) in an official order, and (2) in its Frequently Asked Questions documents on

universal service and schools, libraries, and health care providers, that without jeopardizing the discounts of schools, libraries, and rural health care providers, community-based nonprofit organizations are permitted to participate in buying consortia with schools, libraries, rural health care providers, and governmental entities; that any restriction on rates at which such a consortia may purchase is limited to interstate services purchased from ILECs; and that while interstate services from ILECs must be purchased at tariffed rates, such tariffs may include discounted or wholesale rates for bulk buying by an aggregated consumer coalition.

DATED: July 14, 1997

Respectfully submitted,

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